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<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/708,150	KURTH, PAUL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Catherine S. Williams	3763	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment dated 6-4-04.
2. ☒ The allowed claim(s) is/are 4-6, 8-12, 29-32, 37-41, 53, 55, 56, 58-60, 70-73, 75, 90 and 91.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|---|---|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
|---|---|

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Daniel Dawes on 11-8-2004.

The application has been amended as follows:

In the claims:

In claims 29,32,39,41,53,72,73 and 75 line 2, "capable of at least temporarily retaining" was replaced with --configured to at least temporarily retain--.

In claims 29,32,39,41,53,72,73 and 75 line 5, "implanted" was replaced with --moldable--.

In claims 90 and 91 line 2, --configured--was inserted between "sheath" and "with sufficient moldability".

### ***Allowable Subject Matter***

Claims 4-6,8-12,29-32,37-41,53,55-56,58-60,70-73,75 and 90-91 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claims 29,32,39,41,53,72,73 and 75, the prior art fails to teach the combination of a moldable sheath configured to at least temporarily retain a specific shape selectively imparted to it and a shaping tool arranged and configured to be applicant to the

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moldable sheath to impart the specific shape to the sheath while within a body cavity where the shape is held without continued assistance of the shaping tool and where either the specific shape is selectively imparted to the sheath by a bending of the sheath and the shape is held without the inserted presence of the tool in the sheath, the shaping tool is applied exteriorly to the sheath, the sheath has at least a portion having a portion of changed moldability relative to remaining portions of the sheath dependant on temperature and a portion of changed moldability relative to remaining portions of the sheath dependant on moisture, the sheath has at least a portion of changed moldability relative to remaining portions of the sheath by treating at least a portion of the sheath exterior to the body cavity prior to implanting with radiation, the sheath has a tip portion that is substantially soft and compliant without appreciably moldability, the shaping tool has at least one lumen and a vent communicating with the lumen, or the shaping tool has a conductor and an electrode coupled to the conductor for sensing or delivery of energy from the electrode.

Regarding claims 90 and 91, the prior art fails to teach the combination of a moldable sheath configured with sufficient moldability at body temperatures to at least temporarily retain a specific shape imparted to it, a lumen defined in the sheath and where the sheath has at least one portion with a stiffness different than remaining portions of the sheath wherein the sheath is comprised of a relatively stiffer or less moldable proximal portion, a relatively stiffer or less moldable distal portion extending to a distal tip with a relatively less stiff or more moldable intermediate portion therebetween.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine S. Williams whose telephone number is 571-272-4970. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Catherine S. Williams *(CSW)*  
November 9, 2004

  
NICHOLAS D. LUCCHESI  
FEDERAL PATENT EXAMINER  
TECHNOLOGY CENTER 3700